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Remarks

Claims 1-18 are in the case. Claims 1, 3, and 4 are rejected under 35 USC § 102 over USPN 5,740,629 to Fischer et al. Claim 2 is rejected under 35 USC § 103 over the '629 patent in view of USPN 6843613 to Gelfand et al.. Claims 1-4 have been amended and claims 5-18 have been added. No new matter has been introduced by the amendments or additional claims, which are supported by the disclosure of the original claims and the specification. The amendments to claims 1-4 were made to correct procedural defects and to more clearly define the invention. The amendments were not made for any reasons related to patentability or to overcome the substantive rejections over prior art. Reconsideration and allowance of the claims as amended are respectfully requested.

INFORMATION DISCLOSURE STATEMENT

The Examiner made Applicants aware that a proper information disclosure statement as required under 37 CFR 1.98(b) was not submitted. Applicants submit a proper disclosure herewith. Applicants authorize any required fees to be charged to Deposit Account No. 12-2355.

SPECIFICATION OBJECTIONS

The abstract is objected to because of informalities. The abstract is hereby amended as given above to overcome the informalities. Reconsideration is respectfully requested. Also, a clean copy of the specification is attached hereto as requested by the Examiner.

DRAWINGS OBJECTIONS

The drawings are objected to because of various informalities. The drawings are hereby amended as shown in the replacement sheets to overcome the informalities. Reconsideration is respectfully requested.

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CLAIM OBJECTIONS & REJECTIONS UNDER §112

The claims are objected to because of informalities and rejected as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. The claims are hereby amended as given above to overcome the objections and 112 rejections. Reconsideration is respectfully requested.

CLAIM REJECTIONS UNDER §102

Claims 1, 3, and 4 are rejected under 35 U.S.C. 102 as being unpatentable over the '629 patent. Independent claim 1 claims, *inter alia*, a barrier reinforcement which includes a stopping assembly with a cable working in connection with a structural member with curved end portions to reinforce a barrier against an impact. When the barrier is impacted, the stopping assembly is caught by passive devices located on upright members. These passive devices are simpler than prior barrier reinforcements and do not have to be reset after use. The curved end portions of the structural member help to distribute forces along the cable and limit the possibility that the cable could be cut by a concentrated force at a small number of locations on the cable during impact when the stopping assembly is caught by the passive device located on the upright members.

The '629 patent at least does not disclose a barrier reinforcement with a structural member with curved end portions for distributing the force on a cable. It appears that the device of the '629 patent would face similar problems as devices in the prior art where a wire cable extended through a pipe and impact forces were concentrated on the cable at the ends of the pipe. It appears the device of the '629 patent would face similar concentrated forces on the cable at the end of the longitudinal channel 28 of Figure 2.

Further, the '629 patent does not disclose any passive engagement devices located on an upright member. Instead, the '629 patent discloses a complex active device for engaging a brace attached to a gate. This active device includes a spring-loaded locking pin that must be reloaded after each use and does not provide the simplicity and ease of use of the passive engagement devices as claimed in claim 1.

Thus, claim 1 patentably defines over the '629 patent. Reconsideration and allowance of claim 1 are respectfully requested.

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Dependent claims 3 and 4 depend from independent claim 1, and contain additional important aspects of the invention. Therefore, dependent claims 3 and 4 patentably define over the '629 patent for at least the same reasons as claim 1. Reconsideration and allowance of dependent claims 3 and 4 are respectfully requested.

CLAIM REJECTIONS UNDER §103

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over the '629 patent in view of the '613 patent. Dependent claim 2 depends from independent claim 1 and contains additional important aspects of the invention. The deficiencies of the '629 patent in relation to independent claim 1 are described at length above. The '613 patent does not compensate for the deficiencies of the '629 patent.

In particular, the '629 patent does not describe a barrier reinforcement with a stopping assembly which includes a cable working in connection with a structural member with curved end portions to reinforce the barrier against an impact. Instead, the '613 patent merely shows a retractable railroad crossing barrier with a energy absorbing net. The device of the '613 patent is not a device to reinforce a barrier. Also, the '613 patent does not include any cable working in conjunction with a structural member, much less a structural member with curved end portions for distributing forces along the cable. Further, the '613 patent does not describe any engagement device for catching a stopping assembly when a barrier is impacted. It is simply a net mounted on shock absorbers.

Thus, claim 2 patentably defines over the '629 patent in view of the '613 patent. Reconsideration and allowance of claim 2 are respectfully requested.

ADDITIONAL COMMENTS

Applicants have added claims 5-18 to the application to more fully describe the invention. In the interest of efficiency, Applicants note that claims 5-18 define over the '613 patent and the '629 patent for many reasons similar to the reasons stated above with respect to claims 1-4. Further, claims 5-18 contain many additional important aspects of the invention which are not described in any of the cited patents.

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CONCLUSION

Applicants assert that the claims of the present application patentably define over the prior art made of record and not relied upon for the same reasons as given above. Applicants respectfully submit that a full and complete response to the office action is provided herein, and that the application is now fully in condition for allowance. Action in accordance therewith is respectfully requested.

As shown in the attached petition for extension of time, applicants hereby petition for the appropriate extension of time and request that the fee for the extension be charged to deposit account 12-2355. If other fees are required by this amendment, such as fees for additional claims, such fees may be charged to deposit account 12-2355. Should the examiner require further clarification of the invention, it is requested that he contact the undersigned before issuing the next office action.

Sincerely,

LUEDEKA, NEELY & GRAHAM, P.C.

By: 

Michael J. Bradford, 52,646

2005.09.26